

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

DAVID TIMBERS

*

Plaintiff,

*

v.

*

Civil No. 8:21-cv-00293-PX

TELLIGENT MASONRY, LLC, et al.

*

Defendants.

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* * * * *

DEFENDANT TELLIGENT MASONRY, LLC'S MOTION TO DISMISS

Defendant Telligent Masonry, LLC (hereinafter, "Defendant"), by and through its undersigned counsel, hereby moves to dismiss Count I through Count IV for failure to state a claim pursuant to Federal Rules of Civil Procedure ("FRCP") Rule 12(b)(6) and states as follows:

1. On February 5, 2021, Plaintiff David Timbers filed a Complaint against Defendant as well as Defendant's employee, Tia Taylor, relating to alleged discrimination and retaliation under Title VII and 42 U.S.C. § 1981.

2. On February 9, 2021, Plaintiff served a copy of the Summons and Complaint on Defendant.

3. On February 25, 2021, Plaintiff, Defendant, and Tia Taylor, all consented to an extension of time to file a response to the Complaint in this matter until April 1, 2021.

4. As set forth more fully in the Memorandum of Law in Support of Defendant Telligent Masonry, LLC's Motion to Dismiss ("the Memorandum"), Plaintiff has failed to properly state cognizable claims in his Complaint, as required by FRCP 8.


5. In particular, and as set forth in the Memorandum, Plaintiff has not alleged sufficient facts that, even if taken as true, present a claim for relief that is plausible on the face of

the Complaint, with respect to Count I (Violation of Title VII – Racial Discrimination), Count II (Violation of Title VII – Retaliation), Count III (Violation of 42 U.S.C. § 1981 – Discrimination), and Count IV (Violation of 42 U.S.C. § 1981 – Retaliation).

6. Accordingly, as espoused by *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007), these claims cannot survive a motion to dismiss under FRCP 12(b)(6).

7. For these reasons, and as more fully set forth in the Memorandum, this Motion to Dismiss as to Count I through Count IV of the Complaint should be granted. A copy of the proposed Order is attached to this Motion to Dismiss.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on April 1, 2021, a true copy of DEFENDANT TELLIGENT MASONRY, LLC'S MOTION TO DISMISS and the MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT TELLIGENT MASONRY, LLC'S MOTION TO DISMISS were filed with the Clerk of Court using the CM/ECF system, which will send a notification of such filing, and were mailed, postage pre-paid to the following:

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